

HOUSE BILL 3799

By Bone

AN ACT to amend Tennessee Code Annotated, Title 44,
relative to livestock.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 44, Chapter 10, Part 1, is amended by deleting the part in its entirety.

SECTION 2. Tennessee Code Annotated, Title 44, Chapter 10, Part 202, is amended by deleting subdivisions (2), (3) and (4) in their entirety and by substituting instead the following appropriately designated subdivisions:

() "Alternative livestock" means non-traditional livestock that are hoofed and captive-farmed for purposes of agricultural or recreational use, as defined by § 70-4-403(3);

() "Livestock" means cattle, calves, horses, mules, poultry, swine, sheep, goats, and alternative livestock;

() "Livestock dealer" means any person who buys, receives or assembles livestock for resale for that person's own account or that of another person more than nine (9) times in any consecutive three (3) month period;

() "Livestock producer" means any person who sells only livestock such person has raised or such person has owned and had in possession for a minimum of sixty (60) days;

SECTION 3. Tennessee Code Annotated, Section 44-10-205, is amended by deleting subsection (a) in its entirety and by substituting instead the following language:

(a) In the event the commissioner has reason to believe a licensee has violated any of the provisions of this part, including the rules and regulations promulgated under

this part, the commissioner shall conduct a hearing, pursuant to the Uniform Administrative Procedures Act, title, 4, chapter 5, part 3, to determine if the license shall be suspended or revoked.

SECTION 4. Tennessee Code Annotated, Section 44-10-206, is amended by deleting subdivision (2) in its entirety and by adding the following as appropriately numbered subdivisions:

(_) Failure to maintain records as required by the commissioner, including the names and addresses of sellers and buyers of livestock;

(_) Failure to make payment to a buyer or seller, or making such payment with insufficient funds;

(_) Failure to keep current bond requirements pursuant to 9 C.F.R. 201 et seq.;

SECTION 5. Tennessee Code Annotated, Section 44-10-207, is amended by deleting the current language in its entirety and by substituting instead the following:

This part shall not apply to any livestock producer who may occasionally buy or sell livestock in connection with that person's farming operations.

SECTION 6. Tennessee Code Annotated, Title 44, Chapter 11, Part 101, is amended by deleting subdivisions (2), (3), (5), (6), (7), and (9) in their entirety and by substituting instead the following as appropriately designated subdivisions:

(_) "Alternative livestock" means non-traditional livestock that are hoofed and captive farmed for purposes of agricultural or recreational use, as defined by § 70-4-403(3);

(_) "Breed association" means a bona fide livestock breed association which conducts sales of livestock breeds recognized by the department in which such association assumes responsibility for conducting the sales, assumes title to any livestock sold, and accrues a majority of profits from the sales;

(_) “Consignor” means any person consigning, shipping, or delivering livestock to a livestock market for sale, resale, or exchange;

(_) “Livestock” means cattle, calves, horses, mules, poultry, swine, sheep, goats, and alternative livestock;

(_) “Livestock market” means any location where livestock is assembled and sold at public auction, on a commission basis, or otherwise for the compensation of the owner or operator, during regularly scheduled or special sales;

(_) “Livestock producer” means any person who sells only livestock such person has raised or such person has owned and had in possession for a minimum of sixty (60) days;

(_) “Operator” means any person conducting business as a livestock market;

(_) “Representative” means an employee or designee of the commissioner.

SECTION 7. Tennessee Code Annotated, Section 44-11-102, is amended by deleting the section in its entirety and by adding the following:

(a) No Person shall conduct the business of a livestock market without a valid license from the department.

(1) The application for a license shall be on forms prescribed and furnished by the department, and shall include:

(A) The name, address and phone number of the livestock market operator;

(B) The location and description of the establishment or property where the livestock market is to be conducted;

(C) A report of the types and volume of livestock to be handled, sold or exchanged;

(D) A copy of property and fire insurance for the livestock market;

(E) Proof the applicant has met the bonding requirements of 9 C.F.R.201; and

(F) Such other information as the commissioner may require.

(2) All applications shall be accompanied by the license fee required by 44-11-104.

(b) This chapter shall not be construed to include as a livestock market the following:

(1) Any operation where Future Farmers, 4-H Club groups, or fairs conduct sales of livestock; and

(2) Any livestock producer or breed association as defined by § 44-11-101.

SECTION 8. Tennessee Code Annotated, Section 44-11-103, is amended by deleting the section in its entirety.

SECTION 9. Tennessee Code Annotated, Section 44-11-104, is amended by deleting the words “community sale” wherever they appear and by substituting instead the words “livestock market”.

SECTION 10. Tennessee Code Annotated, Section 44-11-105, is amended by deleting section in its entirety and adding the following:

(a) A separate license shall be required for each establishment or premises where a livestock market is operated or conducted. The original, or a certified copy of the license hereunder, shall be conspicuously displayed by the licensee in the sale ring or some other like prominent place in the establishment or premises licensed.

(b) Licenses shall expire on June 30 of each year and shall be renewed annually upon like application and procedure as in the case of the original license.

SECTION 11. Tennessee Code Annotated, Section 44-11-106, is amended by deleting subdivision (7) in its entirety and by adding the following as new appropriately designated subdivisions:

(_) The licensee has failed to comply with the Beef Promotion and Research Act of 1985, 7 U.S.C. 2901-2911, or the Agriculture Commodities Promotion Act, § 43-29-101;

(_) The licensee has failed to make payment after a sale or making payment with insufficient funds to consigners for livestock sold through the market; or

(_) The licensee has been determined to be insolvent by the commissioner.

SECTION 12. Tennessee Code Annotated, Section 44-11-106, is further amended by deleting subsection (b) in its entirety and by adding the following:

(b) When any of the foregoing have not been fully complied with, or if there has been a violation of this chapter, the commissioner may give notice to the applicant for a license, or a holder of a license, that the commissioner will conduct a hearing for the purpose of determining whether the commissioner should decline to grant, renew, or suspend or revoke a license pursuant to the Uniform Administrative Procedures Act, title 4, chapter 5, part 3. The findings of the commissioner shall be final, and may be reviewed in the chancery court of Davidson County, by the common law writ of certiorari. When zoning is the question involved, the commissioner shall notify the applicant or holder of the license of the violation, and the applicant or holder shall then have only the rights granted in the zoning ordinance or regulation relative to a hearing and appeal, and shall prosecute the application for a hearing and appeal solely under the particular local zoning ordinance or regulation.

SECTION 13. Tennessee Code Annotated, Section 44-11-107, is amended by deleting the section in its entirety and by substituting instead the following language:

Each livestock market may be under the direct supervision of a representative of the department. Except as otherwise provided in this chapter, no livestock known to be infected with or known to have been exposed to any contagious, infectious or communicable animal disease or infestation shall be consigned to or sold through any livestock market. The representative may inspect all livestock that is offered for sale and may prohibit the movement of any animals that in the representative's opinion are diseased or that are likely to be carriers of disease, until final inspection is made by a qualified, accredited veterinarian, as to their condition. If, upon examination, an infectious, contagious or communicable disease or infestation is found, such animals may be sold only for immediate slaughter to a recognized slaughterer where veterinary inspection is maintained; or, the owner may, upon submission of an affidavit of ownership for at least sixty (60) days prior to sale date, return them to the original premises, where a strict quarantine must be maintained. The representative shall also issue or cause to be issued all necessary quarantines for such animals as are sold for immediate slaughter or are returned to the original premises. A copy of the quarantine shall be sent to the state veterinarian immediately following issuance, and instructions given the owner that the truck moving the quarantined animals to slaughter or returning them to the original premises must be cleaned and disinfected before being used again to transport livestock. The representative shall supervise the cleaning and disinfecting of the yards and pens at such time as may be necessary, using only those disinfectants approved by the animal disease eradication branch of the agricultural research service of the United States department of agriculture.

SECTION 14. Tennessee Code Annotated, Section 44-11-108, is amended by deleting the words "community sale" wherever they appear and by substituting instead the words "livestock market".

SECTION 15. Tennessee Code Annotated, Section 44-11-108, is further amended by deleting subdivision (a)(2) in its entirety and by following as new appropriately designated subdivisions:

(_) A description of the livestock which shall include ear tag number or back tag number, or animal descriptors such as livestock sex, color, marking, or weight;

(_) The date the livestock was received and sold;

SECTION 16. Tennessee Code Annotated, Section 44-11-109, is amended by deleting the section in its entirety and adding the following language:

It is unlawful to sell, or offer to sell, to buy, or offer to buy, livestock within two thousand (2,000) feet of a licensed livestock market property.

SECTION 17. Tennessee Code Annotated, Section 44-11-115, is amended by deleting the section in its entirety and adding the following language:

Any livestock operator, or any person who engages in business as a livestock market without a license, as herein required, or who violates any of the provisions of this chapter, or any rules and regulations lawfully issued hereunder, commits a Class A misdemeanor.

SECTION 18. Tennessee Code Annotated, Title 44, Chapter 11, Part 1, is amended by adding the following language as a new, appropriately designated section:

Section 44-11-116.

Whenever it appears to the commissioner that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of this part or any rule hereunder, the commissioner may, in the commissioner's discretion, bring an action in the chancery court of any county in this state to enjoin the acts or practices and to enforce compliance with this part or any rule hereunder.

SECTION 19. Tennessee Code Annotated, Section 44-7-403(a), is amended by adding the words “who belong to Tennessee residents,” between the word “livestock” and the word “except”.

SECTION 20. Tennessee Code Annotated, Title 44, Chapter 12, Part 1, is amended by deleting the part in its entirety.

SECTION 21. This act shall take effect June 30, 2010, the public welfare requiring it.